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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 08/851,465 | 05/05/1997 | EDGAR C. ROBINSON | INT21246 | 5986 |

7590 10/25/2004

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EXAMINER

COCKS, JOSIAH C

ART UNIT PAPER NUMBER

3749

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

08/851,465

Applicant(s)

ROBINSON ET AL.

Examiner

Josiah Cocks

Art Unit

3749

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Advisory Action

1. Continuation of item 5.

Applicant submitted an After Final Response on 10/11/2004. In a telephone conversation on 10/20/2004 applicant's representative, John Uren, indicated that a supplemental After Final response was being submitted to correct essentially clerical errors in the 10/11/2004 After Final response. This Advisory Action is responsive to the supplemental After Final response filed 10/20/2004.

Applicant argues that there is not teaching or suggestion in the prior art reference to Reichhelm that only a fuel adjustment device is used. However, the examiner notes that applicant's claims do not require that "only" a fuel adjustment valve be present. As was indicated in the Final Rejection mailed 8/11/2004, Reichhelm clearly discloses a manual liquid fuel adjustment valve (22) that is adjustable during operation of the burner. This fuel adjustment valve desirably allows the fuel flow to be proportioned to produce a desired flame setting (see Reichhelm, col. 6, lines 1-4) and desired characteristics of burner performance (see col. 5, lines 54-57). This manual fuel-proportioning valve (22) is identical in both structure and function to the valve recited in applicant's claims. That Reichhelm also includes an additional air-control valve (34) does not somehow cause applicant's claimed fuel adjusting valve to read over the fuel-adjusting valve (22) disclosed in Reichhelm.

Applicant also argues that the Bennett reference is not a helpful reference. However, as applicant has noted, the Bennett reference is simply cited to show that infrared burners are a recognized category of burner characterized in that flame as directed to contact an incandescent

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surface to radiate heat. These burners are recognized to be desirable because of their cleanliness, efficiency, and ability to minimize flame quenching (see Bennett, col. 1, lines 10-36 and col. 3, lines 15-27). The examiner considers that regardless of how the flame is produced, i.e. using pre-mixed fuel and air or mixing the fuel and air at the burner, a person of ordinary skill in the would consider the structure and function associated with an infrared burner to be desirable for the reasons noted.

Applicant's claims are not considered to recite any structure that is not present in the prior art relied upon by the examiner.

USPTO Contact Information

2. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).


3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
October 21, 2004


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749